

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED
JUN 14 2004

ED-7
FILED FOR DOCKETING
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CLERK
U.S. DISTRICT COURT

QUADRIGA ASSET MANAGEMENT, INC.)
and QUADRIGA BETEILIGUNGS-UND)
VERMOGENS-AKTIENGESELLSCHAFT,)

Plaintiffs,)

v.)

ANGELO, GORDON & CO., L.P.; AG)
SUPERFUND, L.P.; AG SUPER FUND)
INTERNATIONAL, LTD.; AG)
SUPERFUND INTERNATIONAL)
PARTNERS, L.P.; and AG LONG TERM)
SUPER FUND, L.P.,)

Defendants.)

JUDGE MANNING

04C 3965

MAGISTRATE JUDGE ASHMAN

COMPLAINT

Plaintiffs complain of Defendants as follows:

NATURE OF THE ACTION AND PARTIES

1. This action arises under the Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.*, as amended ("the Lanham Act"), and Illinois state law.
2. Plaintiff Quadriga Asset Management, Inc., ("Quadriga USA") is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in Chicago, Illinois.
3. Plaintiff Quadriga Beteiligungs-und Vermögens-Aktiengesellschaft ("Quadriga AG") is a company organized and existing under the laws of Austria.
4. On information and belief, Defendant Angelo, Gordon & Co., L.P., is a limited partnership organized and existing under the laws of the State of Delaware.

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5. On information and belief, Defendant AG Superfund, L.P. is a limited partnership organized and existing under the laws of the State of Delaware.

6. On information and belief, Defendant AG Super Fund International, Ltd. is a corporation organized and existing under the laws of the British Virgin Islands.

7. On information and belief, Defendant AG Superfund International Partners, L.P. is a limited partnership organized and existing under the laws of the Cayman Islands.

8. On information and belief, Defendant AG Long Term Super Fund, L.P. is a limited partnership organized and existing under the laws of the State of Delaware.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over this action pursuant to: 28 U.S.C. §§ 1331, 1332, 1338; 15 U.S.C. § 1121; and 28 U.S.C. § 1367.

10. This Court has personal jurisdiction over the Defendants because each conducts business in this District and offers services to persons and entities in this District.

11. Venue in this District is proper pursuant to 28 U.S.C. § 1391.

FACTS

12. Quadriga AG provides financial investment services in futures funds. The service mark SUPERFUND is, and for many years has been, used by or on behalf of Quadriga AG in interstate commerce connection with investment services.

13. Quadriga AG has licensed to Quadriga USA the right to use the SUPERFUND mark to, among other things, sell interests in certain futures funds.

14. Quadriga USA is the user and owner, by assignment, of the marks SUPER FUND and SUPERFUND in connection with financial services, including without limitation, commodities brokerage services, advisory services, investment services, commodities pools and managed futures.

15. As a result of Plaintiffs' extensive use and promotion of SUPERFUND and SUPER FUND for the services listed in ¶¶ 12-14 above, the mark has become well-known, includes valuable goodwill, and is a valuable asset.

16. On October 23, 2002, Quadriga AG applied to register SUPERFUND with the U.S. Patent and Trademark Office, for "financial investment in the field of financial services in the nature of investment of capital in primarily derivative instruments, namely, options and futures on all major international stock markets, currencies, commodities, and interest rate products, as well as securities; financial investment consultation services, namely, financial consulting services provided with regard to asset allocation, trend-following, technical analysis, and money management." The application was filed on an "intent to use" basis, has been assigned Serial No. 76/461,533, and is pending.

17. After Plaintiffs (or Quadriga USA's predecessor in interest) began using SUPERFUND and SUPER FUND for the services listed above, Defendants began using SUPER FUND, SUPERFUND, or both in connection with fund investment services in interstate commerce.

18. Plaintiffs have not licensed, authorized, approved, consented to, or permitted Defendants' aforementioned use of SUPERFUND, SUPER FUND, or both.

19. Defendants have been advised of Plaintiffs' trademark rights but have refused to discontinue their use. Defendants' ongoing acts are being, and have been, undertaken with full knowledge of Plaintiffs' superior rights.

20. On information and belief, none of the Defendants owns a trademark registration for SUPERFUND or SUPER FUND.

21. On information and belief, on January 22, 2004, Defendant Angelo, Gordon & Co., L.P. filed an application to register AG SUPER FUND, L.P. with the U.S. Patent and Trademark Office, for "fund investment services." The application has been assigned Serial No. 76/568,740 and is pending.

22. Plaintiffs are being, and will continue to be, irreparably harmed as a result of Defendants' actions, which will continue unless enjoined by this Court.

COUNT I:

FEDERAL UNFAIR COMPETITION UNDER THE LANHAM ACT

23. Plaintiffs repeat and reallege the allegations set forth in ¶¶ 1 through 22.

24. Defendants' aforementioned use of SUPERFUND, SUPER FUND, or both is likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with Plaintiffs, or as to the origin, sponsorship, or approval of Defendants' services or commercial activities by Plaintiffs, in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 11125(a).

COUNT II:

UNFAIR AND DECEPTIVE BUSINESS PRACTICES UNDER ILLINOIS LAW

25. Plaintiffs repeat and reallege the allegations set forth in ¶¶ 1 through 24.

26. Defendants' aforementioned use of SUPERFUND, SUPER FUND, or both is likely to deceive the public into believing that Defendants' services or commercial activities are authorized, approved, or sponsored by Plaintiffs, in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1-12.

COUNT III:

DECEPTIVE TRADE PRACTICES UNDER ILLINOIS LAW

27. Plaintiffs repeat and reallege the allegations set forth in ¶¶ 1 through 26.

28. Defendants' aforementioned use of SUPERFUND, SUPER FUND, or both is likely to cause confusion or misunderstanding among the relevant public as to the source, origin, quality, approval, authorization, or sponsorship of Defendants' services or commercial activities, in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510/1-7.

COUNT IV:

COMMON LAW TRADEMARK INFRINGEMENT UNDER ILLINOIS LAW

29. Plaintiffs repeat and reallege the allegations set forth in ¶¶ 1 through 28.

30. Defendants' aforementioned use of SUPERFUND, SUPER FUND, or both is likely to cause confusion or misunderstanding among the relevant public as to the source, origin, quality, approval, authorization, or sponsorship of Defendants' services

or commercial activities, in violation of the Illinois common law of trademark infringement.

WHEREFORE, Plaintiffs pray that the Court:

- (A) Issue a preliminary and, after trial or summary judgment proceedings, permanent injunction enjoining Defendants, any business owned by, controlled by, or affiliated with them, and their employees, officers, agents, servants, attorneys, representatives, successors and assigns, and all persons or entities acting in concert or participating with Defendants or on their behalf, from:
 - (1) Providing financial investment services under SUPERFUND, SUPER FUND, or any mark similar thereto; and
 - (2) Making any other use of SUPERFUND, SUPER FUND, or any mark similar thereto that is likely to confuse the public into believing that Defendants' services or commercial activities originate from, are associated with, or are sponsored or approved by Plaintiffs;
- (B) Award to Plaintiffs the profits realized by Defendants from their unlawful acts complained of herein;
- (C) Award to Plaintiffs their damages resulting from Defendants' unlawful acts complained of herein;
- (D) Award to Plaintiffs their costs and reasonable attorneys' fees incurred in this action;
- (E) Award to Plaintiffs all prejudgment interest; and

(F) Award such other and further relief as this Court deems to be reasonable,
necessary and just.

Plaintiffs hereby demand a **trial by jury** on all issues so triable.

Respectfully submitted,



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John T. Gabrielides
Scott J. Slavick
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Jeffrey E. Kopiwoda
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Fax (312) 239-2241

Attorneys for Plaintiffs

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

04C 3965

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

Quadriga Asset Management, Inc. and
Quadriga Beteiligungs-UND
Vermögens-Aktiengesellschaft

DEFENDANTS

Angelo, Gordon & Co., L.P.; AG
Superfund, L.P.; AG Super Fund
International, Ltd.; AG
Superfund International Partners, L.P.;
and AG Long Term Super Fund, L.P.

MAGISTRATE JUDGE
DOCKETED
JUN 14 2004

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Cook
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Brinks Hofer Gilson & Lione
455 North Cityfront Plaza Drive
NBC Tower - Suite 3600
Chicago, IL 60611-5599 (312)321-4200

ATTORNEYS (IF KNOWN)

Elaine M. LaFlamme
Akin Gump Strauss Hauer & Feld LLP
590 Madison Avenue
New York, NY 10022

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II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

15 U.S.C. Sections 1114 and 1125 for federal trademark infringement, false designation and unfair competition and related state cause of action

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 610 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 630 General <input type="checkbox"/> 635 Death Penalty <input type="checkbox"/> 640 Mandamus & Other <input type="checkbox"/> 650 Civil Rights	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Legislation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (Specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. REMARKS

In response to ☐ Is not a refiling of a previously dismissed actionGeneral Rule 2.21D(2) this case ☐ is a refiling of case number _____ of Judge _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

6-10-04

UNITED STATES DISTRICT COURT

1-2

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

JUDGE MANNING

MAGISTRATE JUDGE ASHMAN

In the Matter of

EASTERN DIVISION


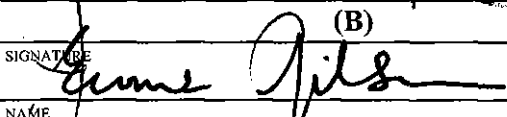
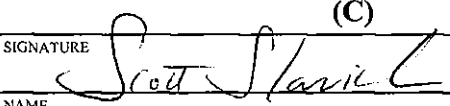
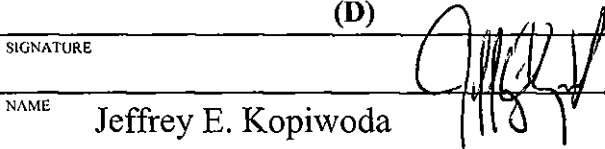
04C 3965

QUADRIGA ASSET MANAGEMENT, INC. and QUADRIGA BETEILIGUNGS-UND VERMOGENS-ARTIENGESELLSCHAFT,
Plaintiffs,

Case Number:

vs.
ANGELO, GORDON & CO., L.P.; AG SUPERFUND, L.P.; AG SUPER FUND INTERNATIONAL, LTD.; AG SUPERFUND INTERNATIONAL PARTNERS, L.P.; and AG LONG TERM SUPER FUND, L.P.,
Defendants.

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR
QUADRIGA ASSET MANAGEMENT, INC. and QUADRIGA BETEILIGUNGS-UND VERMOGENS-ARTIENGESELLSCHAFT

(A)		(B)	
SIGNATURE 		SIGNATURE 	
NAME John T. Gabrielides		NAME Jerome Gilson	
FIRM Brinks Hofer Gilson & Lione		FIRM Brinks Hofer Gilson & Lione	
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CITY/STATE/ZIP Chicago, IL 60611-5599		CITY/STATE/ZIP Chicago, IL 60611-5599	
TELEPHONE NUMBER 312-321-4200	FAX NUMBER 312-321-4299	TELEPHONE NUMBER 312-321-4200	FAX NUMBER 312-321-4299
E-MAIL ADDRESS jtg@brinkshofer.com		E-MAIL ADDRESS jgilson@brinkshofer.com	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6198323		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 00961183	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE 		SIGNATURE 	
NAME Scott J. Slavick		NAME Jeffrey E. Kopiwoda	
FIRM Brinks Hofer Gilson & Lione		FIRM Quadriga Asset Management, Inc.	
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E-MAIL ADDRESS sslavick@brinkshofer.com		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6256681		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6229616	
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	

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